

1 JOSEPH P. RUSSONIELLO (CABN 44332)  
United States Attorney

2 BRIAN J. STRETCH (CABN 163973)  
3 Chief, Criminal Division

4 450 Golden Gate Avenue, Box 36055  
San Francisco, California 94102-3495  
5 Telephone: (415) 436-6842  
FAX: (415) 436-7234  
6 brian.stretch@usdoj.gov

7 Attorneys for Plaintiff

8

9 UNITED STATES DISTRICT COURT  
10 NORTHERN DISTRICT OF CALIFORNIA  
11 OAKLAND DIVISION

12  
13 UNITED STATES OF AMERICA, ) No. CR 00-40015-02- DLJ  
14 Plaintiff, )  
15 v. ) STIPULATION AND ORDER FOR  
16 DESEAN BROWN, ) SENTENCING MODIFICATION UNDER  
17 Defendant. ) 18 U.S.C. § 3582(c)(2)  
18

---

19 IT IS HEREBY STIPULATED AND AGREED, by and between the parties acting  
20 through their respective counsel, that:

21 1. The Court has indicated that it will make its own motion for a modification of the  
22 defendant's sentence pursuant to 18 U.S.C. § 3582(c)(2).

23 2. Defendant's original guideline calculation was as follows:

24 Total Offense Level 29

25 Criminal History Category II

26 Sentencing range of 91 to 121 months' imprisonment

27 3. Defendant was sentenced on November 21, 2000 to 109 months imprisonment.

28

STIPULATION FOR SENTENCING  
MODIFICATION UNDER 18 U.S.C. § 3582(c)(2)  
CR 00-40015 DLJ

1       4. Defendant is eligible for a modification of his sentence pursuant to 18 U.S.C. § 3582(c)  
2 and USSG § 1B1.10(c), Amendment 706 of the *United States Sentencing Commission*  
3 *Guidelines Manual*

4       5. Defendant's revised guideline calculation is as follows:

5              Total Offense Level 27

6              Criminal History Category II

7              Sentencing range of 78 to 97 months imprisonment

8       6. According to the modified pre-sentence report, defendant's conduct while imprisoned  
9 reveals that he did not work due to medical restrictions. He was not subject to any incident  
10 reports while in custody and he was not a management problem.

11      7. Based upon the foregoing, the parties hereby stipulate that a sentence of 87 months is  
12 appropriate in this matter.

13     8. Defendant's current projected release date is July 4, 2008.

14     9. The parties further stipulate that all other aspects of the original judgment order including  
15 the length of term of supervised release, all conditions of supervision, fines, restitution, and  
16 special assessment remain as previously imposed.

17    10. Defendant stipulates that he waives and does not request a hearing in this matter  
18 pursuant to Fed. R. Crim. P. 43, 18 U.S.C. § 3582(c)(2); *United States v. Booker*, 543 U.S. 220  
19 (2005) and *Kimbrough v. United States*, 128 S.Ct. 558 (2007); *United States v. Hicks*, 472 F.3d  
20 1167 (9<sup>th</sup> Cir. 2007).

21    11. Defendant waives his right to appeal the district court's sentence.

22    12. Accordingly, the parties agree and stipulate that an amended judgment may be entered  
23 by the Court in accordance with this stipulation pursuant to 18 U.S.C. § 3582(c) and USSG §  
24 1B1.10(c), Amendment 706 of the *United States Sentencing Commission Guidelines Manual*.

25    //

26    //

27    //

28

STIPULATION FOR SENTENCING  
MODIFICATION UNDER 18 U.S.C. § 3582(c)(2)  
CR 00-40015 DLJ

1 IT IS SO STIPULATED:

2

3 DATED: March 5, 2008

4

Respectfully submitted,

5

JOSEPH P. RUSSONIELLO  
United States Attorney

6

/S/

7

---

BRIAN J. STRETCH  
Assistant United States Attorney

8

9

DATED: March 5, 2008

10

/S/

11

---

MICHAEL THORMAN  
Attorney for defendant Desean Brown

12

13

14

15

16

17

18

19

20

21

22

23

24

25

26

27

28

## ORDER

Based upon the stipulation of the parties, and for good cause shown, IT IS HEREBY ORDERED that:

1. The Court is making its own motion for a modification of the defendant's sentence pursuant to 18 U.S.C. § 3582(c)(2)
  2. Defendant is eligible for a modification of his sentence pursuant to 18 U.S.C. § 3582(c) and USSG § 1B1.10(c), Amendment 706 of the *United States Sentencing Commission Guidelines Manual*;
  3. Defendant waived his right to a hearing in this matter pursuant to Fed. R. Crim. P. 43, 18 U.S.C. § 3582(c)(2); *United States v. Booker*, 543 U.S. 220 (2005) and *Kimbrough v. United States*, 128 S.Ct. 558 (2007); *United States v. Hicks*, 472 F.3d 1167 (9<sup>th</sup> Cir. 2007);
  4. Defendant waived his right to appeal the district court's sentence.
  5. Defendant's revised guideline calculation under USSG § 1B1.10(c), Amendment 706 of the *United States Sentencing Commission Guidelines Manual* is:

## Total Offense Level 27

## Criminal History Category II

Sentencing range of 78 to 97 months imprisonment

6. The appropriate sentence in this matter is 87 months of imprisonment. All other aspects of the original judgment order including the length of term of supervised release, all conditions of supervision, fines, restitution, and special assessment remain as previously imposed
  7. An amended judgment shall be entered by the Court in accordance with the parties stipulation pursuant to 18 U.S.C. § 3582(c) and USSG § 1B1.10(c), Amendment 706 of the *United States Sentencing Commission Guidelines Manual*.

DATED: March 7, 2008

  
D. LOWELL JENSEN  
United States District Court Judge